

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Hubert	Team: Team # 2	CCRB Case #: 200815261	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 10/19/2008 8:30 PM	Location of Incident: vicinity of 312 South Avenue	Precinct: 120	18 Mo. SOL 4/19/2010	EO SOL 4/19/2010	
Date/Time CV Reported Wed, 10/22/2008 10:07 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 10/22/2008 10:07 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Salvator Improta	02551	945421	SI IRT
2. Officers			
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Christop Bowden	03868	922010	SI IRT
2. POM Juan Jorge	27039	945859	SI IRT
3. POM Frank Gravano	26288	945783	SI IRT
4. POM Arniko Shrestha	30594	946556	SI IRT

Officer(s)	Allegation	Investigator Recommendation
A.POM Salvator Improta	Discourtesy: PO Salvator Improta spoke obscenely to § 87(2)(b)	
B.POM Salvator Improta	Abuse: PO Salvator Improta refused to provide his name and shield number to § 87(2)(b)	
C.POM Salvator Improta	Force: PO Salvator Improta used physical force against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	
E. Officers	Discourtesy: Officers spoke obscenely and/or rudely to § 87(2)(b)	
F. An officer	Abuse: An officer strip-searched § 87(2)(b)	

Synopsis

§ 87(2)(b) called the CCRB on October 22, 2008 and filed the following complaint on the behalf of her son, § 87(2)(b) through the call processing system. A duplicate investigation was referred to the CCRB by the NYPD Internal Affairs Bureau under Log number 08-48061 on October 24, 2008. On October 19, 2008 at approximately 8:30 PM, § 87(2)(b) was driving on South Avenue in Staten Island with three friends; § 87(2)(b) and § 87(2)(b). PO Improta opened the car door and called § 87(2)(b) an “asshole” (Allegation A). § 87(2)(b) asked PO Improta for his name and badge, which PO Improta refused to provide (Allegation B). PO Improta said, “Don’t worry about it. Don’t be an asshole,” and “Since you want to be an asshole, get out of the car. You are being arrested for disorderly conduct” (Allegation A). § 87(2)(b) exited the car and was placed into handcuffs. During the handcuffing, he inadvertently hurt his ankle and subsequently was unable to walk. § 87(2)(b) fell to the ground due to his ankle injury. Other officers began to arrive on scene at this time. As § 87(2)(b) was unable to walk, PO Improta and officers began to drag § 87(2)(b) around South Avenue (Allegations C and D). An ambulance responded to the area. As PO Improta and officers dragged § 87(2)(b) around the immediate area, § 87(2)(b) heard the officers state to the effect of, “You want to be a wise guy, asshole?” (Allegation E). § 87(2)(b) then told the officers that he wanted to get into the ambulance, but the officers told him that he was going into the van. Officers then picked up § 87(2)(b) and threw him into the police van, threw him out of the police van and into the side of a stretcher where he landed in the street (Allegation D). § 87(2)(b) was then searched by an officer within his underwear, in between the clefts of his buttocks, coming in contact with but not penetrating his rectum (Allegation F).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on November 7, 2008. § 87(2)(b) provided a statement to Detective Bustos from IAB during a callout investigation on October 20, 2008 at § 87(2)(b) Hospital. § 87(2)(b), § 87(2)(g) § 87(2)(b) is described as a black male, age § 87(2)(b) old, standing 5’10” tall, weighing 200 pounds with black hair and brown eyes.

On October 19, 2008 at approximately 8:30 PM, § 87(2)(b) was driving his 2002 smoke grey Dodge Intrepid, license § 87(2)(b) home from work. In the vehicle were three of his friends, § 87(2)(b) and § 87(2)(b) was sitting in the front passenger seat. While driving on South Avenue in Staten Island, a marked police van with two officers pulled § 87(2)(b) s car over in the vicinity of Brabant Street and South Avenue. Two officers approached § 87(2)(b) s vehicle. PO Salvator Improta, who was described as a white male, aged mid to late 20’s, standing 5’9” -5’11” tall, weighing 200 pounds with black hair, approached § 87(2)(b) s driver’s window. PO Juan Jorge, who was described as a Hispanic male, aged mid to late 20’s, standing 5’9”-5’11” tall and weighing 200-220 pounds, approached the vehicle on the passenger side.

PO Improta told § 87(2)(b) to turn off his engine, give the officer the car keys, roll his windows down and hand over his driver’s documents, to which § 87(2)(b) complied. PO Improta and PO Jorge went back to the police van, where they wrote a citation for failure to obey a stop sign. PO Improta handed § 87(2)(b) a ticket and § 87(2)(b) put his ticket and the rest of his driver’s

information onto his dashboard. As the windows were open, a wind blew through the car sweeping his driver's license, registration and the ticket out of the driver's side window. § 87(2)(b) exited the car and retrieved the license, registration and ticket. § 87(2)(b) noticed his keys were on the roof of his car and also retrieved them. § 87(2)(b) got back into his car, and re-started the engine thinking that he was free to leave as he already received a ticket. PO Improta came back to the car, opened § 87(2)(b)'s door, ordered § 87(2)(b) again to shut off the car and called him an "asshole". PO Improta demanded the car keys twice. § 87(2)(b) complied and handed his keys over. PO Improta then slammed the door and it hit § 87(2)(b) in the shoulder causing soreness. § 87(2)(b) asked for the PO Improta's shield number and name at this time, to which PO Improta said to the effect, "Don't worry about it and don't be an asshole." In his earlier statement to IAB, § 87(2)(b) stated that he had asked both of the officers for their badge and shield numbers, but did not clearly state where in the initial interaction it happened, only that it occurred when he was first pulled over.

PO Improta went back to the police van. § 87(2)(b) called 911 in order to seek medical attention for his shoulder. He later stated that he called 911 for an ambulance as he did not think that Staten Island police officers were responsible. § 87(2)(b) asked the other occupants of the vehicle to see if they could see the license tag of the police van. When they could not clearly see, § 87(2)(b) exited the vehicle to get a better view and record the information. § 87(2)(b) stated that the 911 operator requested this information. As he was checking for the license tag of the police van, he noticed that his keys were on the roof of the vehicle. He retrieved them again, entered his vehicle and turned it back on. He rolled up the windows and turned on the music. PO Improta returned to § 87(2)(b)'s car and demanded to know why he had taken his keys back. § 87(2)(b) stated that it was because PO Improta had left them on the roof of his vehicle. § 87(2)(b) asked PO Improta why he needed to give him his keys. PO Improta explained it was to prevent him from driving off. § 87(2)(b) explained that if he had already waited the time that he had, then he would not be pulling off. PO Improta said to the effect, "Oh, since you want to be an asshole, get out of the car. You are getting arrested for disorderly conduct."

§ 87(2)(b) exited the car and PO Improta placed handcuffs on him. While being led to the police van, § 87(2)(b) stated that he injured his ankle. § 87(2)(b) could not recall the exact nature or time of how he was injured. (He later stated that he injured his ankle when PO Improta initially handcuffed him.) As he was being led to the police van, § 87(2)(b) fell to the ground in the middle of the street due to his ankle injury. PO Improta continued to order him to get back up, to which § 87(2)(b) complained of his ankle injury and explained that he cannot walk. PO Improta continued to order him to get up, to which § 87(2)(b) did not comply. Additional officers arrived on scene at this time. While § 87(2)(b) was trying to explain his inability to walk, the officers picked him up and began to drag him around the street. The officers were saying to him, "you want to be a wise guy, an asshole?" During an earlier statement to IAB, § 87(2)(b) said that when he was on the ground, he complained to the officers that his ankle was hurt. In response to their disbelief of § 87(2)(b)'s statements, the officers drew their firearms, and said, "Get on the floor, stop playing, you want to be an asshole."

The ambulance then arrived on scene. § 87(2)(b) stated to the officers that he wished to get into the ambulance because of his ankle. The officers refused this request, and told § 87(2)(b) that he could go with the ambulance after he went to the precinct. They ordered him to get into the police van and § 87(2)(b) explained that he could not get into the van because of this ankle. The officers picked him up with one officer on each arm and several on his legs and threw him into the van. The medics from the ambulance concurrently explained to the officers that they cannot refuse medical treatment and that § 87(2)(b) needs to come with them. The officers then threw § 87(2)(b) out of the police van onto the ground and then into the ambulance's stretcher, which fell over. The medics protested at this time and pleaded with the officers to stop dragging § 87(2)(b) around. The officers were not hitting § 87(2)(b) but continued to drag him around. § 87(2)(b) then described a search that was not reported in his original IAB statement, where the officers searched § 87(2)(b) on the ground. They placed their hands in his pockets, and an officer placed his hand into § 87(2)(b)'s pants, searching deep into the clefts of his buttocks, skin to skin, and coming in contact to but without penetration of his rectum. § 87(2)(b) began to protest with alarm, asking what the officers were doing. The officers then stopped their search, put him on the stretcher, and placed the stretcher in the ambulance. § 87(2)(b) stated that the interaction lasted for approximately 30-45 minutes. While being thrown, § 87(2)(b) landed on his front, but did not ever receive any injuries to his face.

§ 87(2)(b) was then transferred to § 87(2)(b) Hospital. While at the hospital, § 87(2)(b) was examined for a sprained ankle and a bruised shoulder. X rays were also taken of his wrist which was bruised due to handcuffs. After his medical treatment, § 87(2)(b) was transported to the precinct. He was detained and processed overnight, then subsequently released the next day. His charges were for littering, disorderly conduct, resisting arrest, and driving on a restricted license.

Emergency Medical Technician § 87(2)(b)

EMT § 87(2)(b) was interviewed at the CCRB on January 20, 2009. On October 19, 2008, EMT § 87(2)(b) was assigned as an Emergency Medical Technician and was partnered with EMT § 87(2)(b).

At approximately 8:30 PM, § 87(2)(b) received a radio run for the intersection of Brabant Street and South Avenue that was sent only with the description of "Injury." EMT § 87(2)(b) responded to the location and, upon arrival, observed five to 10 officers at the scene. EMT § 87(2)(b) exited the ambulance and saw several police officers standing around an individual, identified as § 87(2)(b) on the ground. EMT § 87(2)(b) walked over to § 87(2)(b) and asked him if he had called 911, to which § 87(2)(b) replied that he had not, but a friend of his did. § 87(2)(b) stated that he did not know why the incident with the police was happening. As people in the area were yelling that the police had hit the individual, EMT § 87(2)(b) asked § 87(2)(b) if anyone had struck him which § 87(2)(b) confirmed. He asked § 87(2)(b) if he was hurt and wished to go to the hospital, to which § 87(2)(b) stated that he was hurt. EMT § 87(2)(b) asked the officers on scene if § 87(2)(b) was under arrest but received no reply. The officers handcuffed § 87(2)(b) stood him up and began walking him towards a police van in the opposite direction of where the ambulance was. EMT § 87(2)(b) stated to the officers that their prisoner had made a request to go to the hospital, and needed to be placed into the ambulance. The officers stated that he was going into the police van. A sergeant, identified as Sgt. Christopher Bowden and described as a heavy set, balding male, walked over and told EMT § 87(2)(b) that § 87(2)(b) was going into the police van. EMT § 87(2)(b) explained that because § 87(2)(b) made the request to go to the hospital due to injury, it was required that the EMTs transport him there. Sgt. Bowden ignored EMT § 87(2)(b).

EMT § 87(2)(b) briefly turned around to tell his partner, EMT § 87(2)(b) to go get the stretcher and when he turned around back towards § 87(2)(b) he observed that § 87(2)(b) was now on the ground as if he had tripped or fell. EMT § 87(2)(b) approached § 87(2)(b) and attempted to help get him onto his feet, but the officers prevented him from doing so. EMT § 87(2)(b) stated again to Sgt. Bowden that § 87(2)(b) was required to be placed into the ambulance. EMT § 87(2)(b) called his supervisor; a FDNY captain identified as Cpt. Caroline Fiorante. Cpt. Fiorante responded and spoke to Sgt. Bowden. As Cpt. Fiorante and Sgt. Bowden discussed the protocol for this situation, EMT § 87(2)(b) observed § 87(2)(b) being placed into the van. After conferencing with Sgt. Bowden, EMT Fiorante approached EMT § 87(2)(b) and told him to take custody of § 87(2)(b) and bring him to the hospital. EMT § 87(2)(b) entered the van, helped § 87(2)(b) exit the van and observed him sit on the EMT's stretcher under his own strength. EMT § 87(2)(b) and his partner secured § 87(2)(b) on the stretcher and they took him to the ambulance. The only time that EMT § 87(2)(b) observed any police interaction with § 87(2)(b) after taking him out of the van was an officer released one of § 87(2)(b)'s wrists from the handcuffs, and re-secured it to the stretcher. In the ambulance, EMT § 87(2)(b) attempted to calm § 87(2)(b) down, until he was acting coherently and then § 87(2)(b) explained that he had an injured shoulder. EMT § 87(2)(b) stated that based on his experience in treating suspects where force had been used, he could tell that the individual's wrist was injured due to the handcuffs, but did not recall any other anomalies or injuries. EMT § 87(2)(b) did not observe the officers searching the individual or hear them using profane language towards him.

Emergency Medical Technician § 87(2)(b)

EMT § 87(2)(b) was interviewed at the CCRB on January 20, 2009. EMT § 87(2)(b) read into the record the FDNY Ambulance Call Report for this incident, which she prepared: § 87(2)(b) male, alert and found ambulatory at scene. Stated right ankle hurts and left wrist hurts. While being assisted by police department, patient started putting up a struggle. Hurt right ankle. Patient then said his left wrist hurt from handcuffs. Patient was positive for pain for right ankle and left wrist. Patient had positive post motor

sensory. Patient had negative signs for shortness of breath, nausea, vomiting, and dizziness. Patient has no lacerations, no bleeding, and his skin is intact. Patient was transported to hospital, § 87(2)(b), with escort. Patient has no other complaints about incident. Patient also showed negative for signs of swelling and decrepitness.

On October 19, 2008 at approximately 8:30 PM, EMT § 87(2)(b) was on duty as a FDNY EMT and responded to a radio run at the intersection of Brabant Street and South Avenue. EMT § 87(2)(b)'s recollection of events is consistent with her partner, EMT § 87(2)(b) with some minor exception. EMT § 87(2)(b) stated that § 87(2)(b) became actively resistant when attempting to place him onto the EMT's stretcher. § 87(2)(b) started to fight the police and threw himself to the ground. EMT § 87(2)(b) also attempted to aid in securing § 87(2)(b) on the stretcher. As she attempted to secure a leg restraint around § 87(2)(b)'s leg, he kicked at EMT § 87(2)(b) and struck her in the stomach with his foot. Throughout this incident, EMT § 87(2)(b) recalled § 87(2)(b) was cursing at the officers with profane language, but did not recall the specific language used. She did not recall any of the officers use profane language towards § 87(2)(b). EMT § 87(2)(b) also did not recall any kind of a search being conducted on the patient once he came out of the police vehicle and was placed on the stretcher.

Civilians not interviewed

The complainant, § 87(2)(b) was not interviewed during the investigation as she was not present to witness any misconduct. With regard to Cpt. Fiorante, enough evidence was present to reach a disposition without her included testimony. § 87(2)(b) was contacted on November 20, and December 4, 2009. He scheduled an appointment for December 9, 2009 which he did not appear as scheduled. A missed call letter was sent on December 10, 2009. Contact was made with § 87(2)(b) on December 11, 2009. He scheduled a second appointment for December 15, 2008, for which he also failed to appear. Attempts to contact § 87(2)(b) via the phone were made on November 20, December 4 and 11, 2008, March 9 and 12, 2009. Please call letters were sent on December 11 and 17, 2008. An appointment was scheduled for § 87(2)(b) on March 11, 2009 at which he did not appear. Attempts to contact § 87(2)(b) via the phone were made November 20, December 4 and 11, 2008. Please call letters were sent on December 11 and 17, 2008. Further phone calls were made on March 9 and 12, 2009. These attempts did not elicit a response.

Results of Investigation

Identification of Officers Interviewed

PO Salvator Improta was identified by the summons which was issued to § 87(2)(b) on the night of the incident. An examination of the roll call determined that PO Juan Jorge was also present with PO Improta. Sgt. Christopher Bowden was identified as the supervisor for PO Improta and PO Jorge via the investigation and his presence on scene was confirmed upon examination of the SPRINT print out. According to the roll call, PO Frank Gravano was assigned as the sergeant's operator for the tour of duty. PO Arniko Shrestha was identified via the IAB referral under IAB Log number 08-48061, and his presence was confirmed through statements provided by the other identified officers.

Officer Statements

PO Salvator Improta

PO Salvator Improta was interviewed at the CCRB on February 9, 2009. PO Improta is § 87(2)(b). PO Improta worked a tour of duty from 5:30 PM on October 19, 2008 to 3:35 AM on October 20, 2008. He was assigned to impact patrol and was partnered with PO Jorge. PO Improta was the recorder in a patrol van number 5482 and was in uniform. Memo book entries regarding this incident are as follows: 2047- Car stop for disobey stop sign: VTL 1172A. Marked 10-96. 2056- One under at 312 South Avenue. § 87(2)(b) 2145- Vehicle released to § 87(2)(b) stepfather of arrested. § 87(2)(b) signed PO

Improta's memo book in receipt.) 2002 Dodge gray, § 87(2)(b) . 0330- Gave receipt to § 87(2)(b) and ID. 0335- End of Tour.

On October 19, 2008, at approximately 8:30 PM, PO Improta was in a police van, with his partner PO Juan Jorge, facing west bound on Arlington Place in Staten Island. They observed a vehicle come through the intersection on South Avenue, driving south bound, which ran through the stop sign at the intersection. The two officers executed a vehicle stop in the vicinity of 312 South Avenue. PO Improta exited the van to go speak to the driver, identified as § 87(2)(b). Subsequent to initial contact with § 87(2)(b) PO Improta issued a summons for disobeying a stop sign. PO Improta walked back to the van. PO Improta noted the stop in his memo book and within a few seconds observed § 87(2)(b) throw the issued summons out of the window. PO Improta walked back to the car and saw the summons on the ground alone. PO Improta told § 87(2)(b) to pick the summons up, to which § 87(2)(b) opened his door, exited the vehicle, picked up the summons, got back inside and closed the door. PO Improta asked § 87(2)(b) for his ID again as well as his car keys, to which § 87(2)(b) handed them over. PO Improta placed the keys on the roof of the car and walked back to the van with the ID.

Within 3-5 minutes, PO Improta saw § 87(2)(b) exit his vehicle, grab the keys and get back in his vehicle. PO Improta approached § 87(2)(b)'s car and asked for the keys back, to which § 87(2)(b) refused. PO Improta opened § 87(2)(b)'s door and took § 87(2)(b) out of the car, where upon § 87(2)(b) began to flail his arms and allow his legs to go limp, falling to the ground under his own volition. As § 87(2)(b) was being pulled from the car, § 87(2)(b) began to yell, "My legs don't work. They are beating me! They are tasing me!" § 87(2)(b) resisted having his arms being put behind his back but was eventually placed into handcuffs. PO Improta attempted to stand § 87(2)(b) up, but he refused to cooperate and did not state why his legs were not functional.

As they were located on the outside of the driver's side door of § 87(2)(b)'s vehicle in the middle of the street, PO Improta dragged § 87(2)(b) by the arms to the rear of the vehicle where he was met by his supervisor, Sgt. Bowden. Within two minutes of pulling § 87(2)(b) from the vehicle, Emergency Medical Services arrived on scene. PO Improta was not aware of who called EMS for § 87(2)(b).

Three EMTs responded to the scene identified as EMT § 87(2)(b) EMT § 87(2)(b) and FDNY Cpt. Caroline Fiorante. Cpt. Fiorante had a conversation with Sgt. Bowden, that PO Improta interpreted to be an argument, but he could not hear the substance of the conversation. § 87(2)(b) was then searched incident to his arrest. PO Improta went into his pockets to ascertain that he had no weapons or contraband before being placed into the ambulance. PO Improta did not go into § 87(2)(b)'s underwear and did not see any other officers do such an action. PO Improta did not call § 87(2)(b) an "asshole" during the incident and did not hear any other officers do so. § 87(2)(b) was placed into the ambulance and then the ambulance left the scene. PO Jorge accompanied § 87(2)(b) to § 87(2)(b) Hospital. PO Improta went back to the precinct to process the arrest of § 87(2)(b) for disorderly conduct.

PO Juan Jorge

PO Juan Jorge was interviewed at the CCRB on February 17, 2009. PO Jorge is a § 87(2)(b). PO Jorge worked a tour of duty from 5:30PM on October 19, 2008 to 2:05 on October 20, 2008. PO Jorge was assigned to Patrol Borough Staten Island Impact Response and his responsibilities included presence patrol and response to radio runs. PO Jorge was assigned a marked radio motor patrol van, number 5482, and was partnered with PO Salvator Improta. Memo book entries regarding this incident are as follows: 2056- One under at 312 South Avenue. Prisoner was taken to § 87(2)(b) Medical Center with ambulance number § 87(2)(b) - (Sgt. Bowden signed memo book) 0257- Left § 87(2)(b) Medical Center and transported prisoner back to 120 PCT stationhouse.

PO Jorge provided a statement consistent to PO Improta's statement with noted differences in their recollection noted.

Before exiting their vehicle, PO Jorge and PO Improta used the police van's PA system to order § 87(2)(b) to turn the car off and place his keys on the roof of the car. Both PO Jorge and PO Improta approached the vehicle with PO Improta on the driver's side and PO Jorge on the passenger side. After PO Jorge observed § 87(2)(b) unlawfully dispose of the summons, he provided additional

details on the events as they occurred. As PO Improta went back to § 87(2)(b) to issue him another summons for the unlawful disposal of a summons, PO Jorge re-positioned himself again on the passenger side of the car. As PO Improta asked Mr. § 87(2)(b) for his information, § 87(2)(b) put his arm through the window, took the keys off the roof, and began to verbally argue with PO Improta. § 87(2)(b) said to the effect of, "I don't have to stay here if I don't want to. You motherfuckers can't hold me here." PO Jorge came around the vehicle to the driver's side in order to provide his partner assistance if needed. As he came around, PO Jorge observed § 87(2)(b) with one foot out of the car while trying to push the door open as PO Improta ordered him to stay in the car. PO Jorge did not recall if PO Improta attempted to hold the door shut. § 87(2)(b) continued to yell to the effect that he should not get a ticket. As PO Jorge arrived at the driver's side door, § 87(2)(b) came out of the vehicle where the officers turned him around and placed handcuffs on him. PO Jorge did not recall who placed the handcuffs on § 87(2)(b). PO Jorge conducted a search of § 87(2)(b) but later stated that he was unsure if § 87(2)(b) was searched prior to or after being handcuffed. PO Jorge placed his hands around and into § 87(2)(b)'s waistband and checked for anything on his belt. PO Jorge then conducted a 'slide and squeeze' of § 87(2)(b)'s person. PO Jorge slid his hands over § 87(2)(b)'s body on the outside of his clothing and squeezed the clothing when he felt anything that might be a weapon.

Once § 87(2)(b) was placed into handcuffs, he fell to the ground and stated, "My legs don't work." PO Jorge further explained that they dragged § 87(2)(b) to the back of the car and onto the sidewalk for his safety and the safety of traffic that was in the area. PO Jorge recalled that the EMTs and his sergeant arrived on scene at about this time, but did not recall a disagreement that took place between Sgt. Bowden and the EMTs. PO Jorge did not interact with the EMT supervisor that also arrived. Once § 87(2)(b) was placed into the ambulance, PO Jorge accompanied § 87(2)(b) to § 87(2)(b) Medical Center for § 87(2)(b)'s complaint of an ankle injury. While at the hospital, § 87(2)(b) asked PO Jorge for his badge and shield number and PO Jorge provided it to him. PO Jorge did not observe any physical injuries on § 87(2)(b). PO Jorge stated that besides having to drag § 87(2)(b) to the sidewalk, placing him on the stretcher or placing him in handcuffs, no other physical force was needed during the arrest.

PO Jorge did not state himself or recall others stating to the effect, "Get on the floor, stop playing, you want to be an asshole," or "Since you want to be an asshole, get out of the car." PO Jorge did not recall a threat of arrest made by himself or other officers to § 87(2)(b) for disorderly conduct. PO Jorge also did not conduct a search that involved him placing his hand inside of § 87(2)(b)'s pants. PO Jorge did not observe any other officer conduct such a search.

Sgt. Christopher Bowden

Sgt. Christopher Bowden was interviewed at the CCRB on February 11, 2009. Sgt. Bowden is a § 87(2)(b). Sgt. Bowden worked a tour of duty from 5:15 PM on October 19, 2008 to 2:12 AM on October 20, 2008. Sgt. Bowden was assigned as the Impact Response Team Supervisor and was partnered with PO Frank Gravano. Sgt. Bowden was in uniform and was assigned a marked patrol car, number 2670. Memo book entries regarding this incident are as follows: 2056- One under by IRT Auto at 312 South Avenue. PO Jorge and PO Improta. 2240- Visited PO Jorge at § 87(2)(b) Hospital.

Sgt. Bowden's recollection of events was consistent with other officer statements with the following noted. Sgt. Bowden arrived on scene at a time prior to when PO Improta and PO Jorge recalled seeing him. He first observed § 87(2)(b) when he was still handcuffed outside his driver's side door. Sgt. Bowden recalled that § 87(2)(b) refused to stand up or walk and had to be dragged by the officers in order to move him due to § 87(2)(b)'s complaint of an injured ankle. Sgt. Bowden recalled § 87(2)(b) being placed in the police van as there was confusion over why the EMT's were called. He recalled discussing with the EMT supervisor on scene that if the patient was complaining of an injury then he had to go to the hospital. As § 87(2)(b) continued to refuse to walk, he was pulled out of the van. § 87(2)(b) needed to be pulled off the bench seat and placed onto a stretcher as he was still being uncooperative. § 87(2)(b) was then taken to the hospital. Sgt. Bowden recalled that PO Gravano may have aided in moving § 87(2)(b) but was unsure of that fact.

Sgt. Bowden recalled that at some point, PO Arniko Shrestha appeared on scene, but he was unable to recall at the exact point that he responded. Sgt. Bowden ordered PO Shrestha to drive § 87(2)(b)'s vehicle back to the precinct. During the incident, § 87(2)(b) made allegations that he

was tasered. Given that Sgt. Bowden is the only one who would have been authorized to carry a taser, but does not carry one, this could not have occurred. Sgt. Bowden did not observe any force being used against § 87(2)(b) with exception to having to pick him up, move him into the van, and then from the van to the gurney, due to § 87(2)(b)'s cooperation. Sgt. Bowden did not recall either the officers or § 87(2)(b) using any profanity. Sgt. Bowden did not hear or state any phrases to the effect of, "Get on the floor, you want to be an asshole," or "Get out of the car, you want to be an asshole." Sgt. Bowden did not recall any officer threaten § 87(2)(b) with arrest for disorderly conduct. Sgt. Bowden did not recall § 87(2)(b) being searched, specifically where an officer placed his hand into § 87(2)(b)'s pants.

PO Frank Gravano

PO Frank Gravano was interviewed at the CCRB on February 18, 2009. PO Gravano is a § 87(2)(b). PO Gravano worked a tour of duty from 5:30 PM on October 19, 2008 to 2:05 AM on October 20, 2008. PO Gravano was assigned as the Impact Response Team Supervisor's operator and was driving for Sgt. Christopher Bowden. He was in uniform and driving a marked patrol car, number 2670. Memo book entries regarding this incident are as follows: 2200- At § 87(2)(b) Medical Center.

PO Gravano recalled first observing § 87(2)(b) being placed into the police van by PO Jorge and PO Improta when Sgt. Bowden and he arrived. PO Gravano was not able to recall the method by which they were placing § 87(2)(b) into the van.

PO Gravano recalled that Sgt. Bowden talked to the EMTs while on the scene, but was unable to hear the content of that conversation. PO Gravano did not recall if anyone talked to the EMS supervisor. PO Gravano went over to assist PO Improta and PO Jorge but did not physically touch § 87(2)(b) or talk to him throughout the rest of the incident. PO Gravano recalled that § 87(2)(b) was screaming and acting disorderly. § 87(2)(b) was screaming to the effect of, "I am being tased. My ankles are broken." PO Gravano did not recall if § 87(2)(b) was screaming profanity or any physical actions that accompanied his yelling. PO Improta and PO Jorge placed § 87(2)(b) into the van, where he remained for less than five minutes, before PO Improta and PO Jorge pulled him out and placed him onto a stretcher. The EMTs then placed § 87(2)(b) into the ambulance and took him to § 87(2)(b) Medical Center. PO Gravano did not recall which officer rode with § 87(2)(b) to the hospital.

During the incident, PO Gravano did not recall himself or any other officers drawing their weapons. He did not recall any threats of arrest being made to § 87(2)(b) regarding a threat of arrest for disorderly conduct. PO Gravano did not recall any officer stating phrases to § 87(2)(b) to the effect of, "Get on the floor, stop playing, you want to be an asshole," or "Get out of the car since you want to be an asshole." PO Gravano did not conduct or observe a search of § 87(2)(b) during his presence on the scene. He also did not view any officer or himself place their hand inside § 87(2)(b)'s pants during a search.

PO Arniko Shrestha

PO Arniko Shrestha was interviewed at the CCRB on March 2, 2009. PO Shrestha is a § 87(2)(b). PO Shrestha worked a tour of duty from 5:30 PM on October 19, 2008, to 2:05 AM on October 20, 2008. He was assigned to foot post number 10 and worked alone. He was in uniform and had no memo book entries regarding this incident.

On October 19, 2008 at approximately 8:30 PM, PO Shrestha was leaving his post for his assigned meal time at 9:00 PM. As he was walking he noticed a car stop in progress and a large crowd had gathered in the area. PO Shrestha stopped to provide assistance to the officers who were executing the car stop. As he walked onto the scene, he noticed approximately 3-4 individuals in a car with a patrol vehicle behind it. The driver of the patrol vehicle, identified as PO Salvator Improta, was using the PA system to tell the driver of the car to get out of the car. Within two to three minutes of ordering the driver out of the car using the PA system, PO Improta walked up to the driver's door of the car and yelled at the driver to get out. The driver, identified via investigation as § 87(2)(b) refused to get out of the car. PO Improta opened the car door and pulled § 87(2)(b) out of the car by the arm. PO Shrestha advised § 87(2)(b)

§ 87(2)(b) to calm down when he was pulled out, but did not further any interaction with him with physical contact. PO Shrestha described § 87(2)(b)'s conduct at this time as verbally loud and resisting as well as physically resisting being pulled out of the car.

PO Shrestha turned away from PO Improta and § 87(2)(b) in order to control the crowd and make sure they did not interfere with the arrest. PO Shrestha did not observe § 87(2)(b) being placed into handcuffs, but recalled that he was physically resistive to the process. Once § 87(2)(b) was out of the vehicle, PO Shrestha was not focused on § 87(2)(b) but could still hear him yelling. PO Shrestha did not recall if § 87(2)(b) was complaining of any injuries at this time, nor did he see PO Improta and his partner, who PO Shrestha could not recall, dragging § 87(2)(b) around the area. PO Shrestha did not see § 87(2)(b) on the ground at all during this time.

When PO Shrestha looked back at the car that § 87(2)(b) was pulled out of, he recalled that SGT Christopher Bowden, their supervisor had appeared on scene at this time. He did not recall seeing any EMTs on scene but saw an ambulance. SGT Bowden ordered PO Shrestha to take the car back to the 120th Precinct stationhouse. The other 2-3 occupants of the car had exited the vehicle by this time and were taking down names and shield numbers of the officers present. PO Shrestha got into the car and drove it to the 120th Precinct stationhouse. When PO Shrestha left, PO Improta's patrol vehicle was still on scene as well as the ambulance. PO Shrestha did not observe § 87(2)(b) being placed into either the patrol vehicle or the ambulance.

PO Shrestha did not recall the officers stating to § 87(2)(b) anything to the effect of, "Stop playing, get on the floor, you want to be an asshole?" or "Since you want to be an asshole, get out of the car." He did not recall any officer threatening to arrest § 87(2)(b) for disorderly conduct. PO Shrestha did not recall any officer refusing to provide their name or shield number to § 87(2)(b). He did not recall any officer drawing their weapon or observe a search of § 87(2)(b). PO Shrestha also did not do any of the above stated actions himself.

Medical Documents

Medical Records of § 87(2)(b) (encl. 26f, 26g) - The medical records from § 87(2)(b)'s treatment on October 19, 2008 at § 87(2)(b) Medical Center noted that his only diagnosed and treated injury was a sprained ankle. Application of a compression bandage and ice were noted as the treatment protocol.

Police Documents

Roll Call (encl. 29) Command Log (encl. 30), Property Vouchers (encl. 34) - The roll call for the Staten Island IRT was ordered for Tour 3, October 19, 2008. The roll call indicated that PO Improta and PO Jorge were partnered and assigned to IRT auto for the tour. PO Shrestha was assigned to a solo foot-post. PO Gravano was assigned as a sergeant's operator with Sgt. Bowden. The command log for Tour 3, October 19, 2008 was ordered. At 9:30 PM, it logs the arrest of § 87(2)(b) with notation that he was removed to § 87(2)(b) Medical Center and returned to the stationhouse at 2:20 AM on October 20, 2008. A property voucher number § 87(2)(b) was issued to § 87(2)(b) for personal items.

Summons (encl. 36) - Summons number § 87(2)(b) was issued to § 87(2)(b) for disobeying a stop sign at the time and place of the incident. No record of disposition was available.

IAB Callout Report (encl. 27a-e) - Detective Erwin Bustos from the Internal Affairs Bureau conducted an investigation under Log number 08-47749, Callout number 08-3144.

SPRINT (encl. 28a-c), 911 Communications CD- SPRINT number § 87(2)(b) details the radio calls made during the incident. The statements made by § 87(2)(b) regarding calling 911 for his shoulder were consistent to the communications recording. In the recording, § 87(2)(b) called 911, noted his location at South Avenue and Brabant Street. He stated that an officer came up to the car and slammed the door into his arm and hand. Explained that an officer pulled him over for running a stop sign, which he did not run do. The officer then issued a summons, which then flew out of the window. The officer came back and took § 87(2)(b)'s keys and ID. § 87(2)(b) tried to explain it was a gust of wind that blew the summons out. Then the officer took the car door after it was opened and slammed it on § 87(2)(b).

§ 87(2)(b)'s arm and hand causing a bruise. § 87(2)(b) then requested an ambulance and does not want any further police officers. § 87(2)(b) also stated that the officer, who was standing behind him, did not provide him with his name and badge when requested.

OLBS (encl. 32a-c) - The online booking system report details the arrest of § 87(2)(b). The OLBS notes that § 87(2)(b) was arrested in front of 312 South Avenue in Staten Island by PO Improta on October 19, 2008 at 8:45 PM. § 87(2)(b) was arrested for obstruction of government administration, resisting arrest and disorderly conduct. PO Improta noted that force was not used incident to the arrest. The narrative of the arrest stated that § 87(2)(b) was arrested after a lawful car stop, whereupon he was observed crumpling the issued summons, became belligerent with the arresting officer, refused to turn off his car engine and exit his vehicle, and then allowed his legs to go limp and refused to be placed in handcuffs by flailing his arms.

Arrest Photograph (encl. 9) - The arrest photograph of § 87(2)(b) shows no visible signs of injury.

Subject Officers' CCRB History

PO Salvator Improta

PO Salvator Improta has been a member of the NYPD for one year and has never had a prior CCRB complaint made against him.

Complainants CCRB History

§ 87(2)(b)

§ 87(2)(b) has never filed a CCRB complaint outside of this case investigation.

§ 87(2)(b)

§ 87(2)(b) has never filed a CCRB complaint outside of this case investigation.

§ 87(2)(b)

Conclusions and Recommendations

Subject Officer Identification

Allegations A, B and C are pleaded against PO Improta as it was established through PO Improta's statements that he was the officer who made initial contact with § 87(2)(b) at the beginning of the stop and he matched the description of the officer described in § 87(2)(b)'s official statement. Allegation D is pleaded against "Officers" as § 87(2)(b) stated officers in addition to PO Improta dragged him, but was unable to provide adequate descriptions of them. Allegation E is pleaded to "Officers" as § 87(2)(b) was unable to specify which officers stated the alleged discourtesy to him.

Allegation F is pleaded against “An officer” as § 87(2)(b) was unable to observe who searched his underwear.

Undisputed Facts

Undisputed facts in this case: § 87(2)(b) was stopped by PO Improta and PO Jorge for a traffic violation in the vicinity of 312 South Avenue in Staten Island whereupon the summons that he was issued landed on the ground outside of the vehicle. § 87(2)(b) was then placed under arrest. § 87(2)(b) was not able to walk on his own once he was in handcuffs and was dragged by PO Improta and officers to the police van. EMS appeared on scene and § 87(2)(b) was taken to § 87(2)(b) Medical Center.

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Allegations not pleaded

§ 87(2)(b) made four additional allegations in both his official statement to the CCRB and statements made to other agencies. § 87(2)(b) alleged that he had in fact not run a stop sign. A stop sign is not pleaded, however, as it amounts to a dispute of the summons. § 87(2)(b) also alleged that he was threatened with arrest for disorderly conduct. § 87(2)(b) was in fact arrested with one charge of disorderly conduct. This threat was therefore a statement of fact and the allegation is not pleaded. § 87(2)(b) also alleged to IAB that the officers drew their firearms on him during the incident. § 87(2)(b) did not state this in his official statement and therefore it is not pleaded. § 87(2)(b) also noted in his IAB statement that both the arresting officer and his partner made refusals to provide their shields or names to him. During his official CCRB statement, § 87(2)(b) alleged that only PO Improta had done so, and therefore an additional allegation is not pleaded.

Allegation A: PO Salvator Improta spoke obscenely to § 87(2)(b)

Allegation B: PO Salvator Improta refused to provide his name and shield number to § 87(2)(b)

According to Patrol Guide procedure 203-09 (encl. Ia), PO Improta would not be allowed to speak in such a manner to § 87(2)(b) specifically when PO Improta called § 87(2)(b) an “asshole.” The procedure states that in contact with the public, an officer must be courteous and respectful. Also according to the Patrol Guide procedure 203-09, PO Improta would also be responsible to ensure that he provided his name and shield to § 87(2)(b) if asked. § 87(2)(g)

Allegation C: PO Salvator Improta used physical force against § 87(2)(b)

Allegation D: Officers used physical force against § 87(2)(b)

In consideration of § 87(2)(b)'s actions of repeatedly exiting his vehicle and entering his vehicle, § 87(2)(g) . As § 87(2)(b)

refused or was unable to move under his own power at the time of his arrest, § 87(2)(g), § 87(2)(b)

According to Patrol Guide procedure 203-11 (encl. Ia,b), “The primary duty of all members of the service is to preserve human life. Only that amount of force necessary to overcome resistance will be used to effect an arrest...” § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation E: Officers spoke obscenely and/or rudely to § 87(2)(b)

As § 87(2)(b) cannot further describe the officers who spoke obscenely to him, did not visually observe the officers who were speaking to him at the time, and all officers present have been interviewed, there are no further investigative actions available. § 87(2)(g)

Allegation F: An officer strip-searched § 87(2)(b)

§ 87(2)(b) alleged that prior to being placed into the ambulance, an officer searched deep into the cleft of his buttocks. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: